
Appeal Decision

Site visit made on 6 November 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th December 2017

Appeal Ref: APP/C1950/W/17/3179600

1 Roe Green Close, Hatfield, Hertfordshire AL10 9PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Huw Jones against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2016/1448/MAJ, dated 15 July 2016, was refused by notice dated 20 June 2017.
 - The development proposed is to demolish existing bungalow and build new apartment block with underground parking.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the consideration of the application by the Council, the proposed development was amended. These amendments also changed the nature of the proposed development, including the number of residential units and the location of the parking spaces. The Council described the revised proposal as the erection of 10 flats and creation of car parking and amenity space following demolition of existing dwellinghouse. I also note that the Appellant has also used this description on the appeal form. Given that this description reflects the revised proposal, I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the development on
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the future occupiers of the development;
 - (iii) the living conditions of the occupiers of 3 Roe Green Close with particular regard to outlook, light and noise; and
 - (iv) infrastructure requirements.

Reasons

Character and appearance

4. The appeal site is located on the corner of Roe Green Close and College Lane and currently consists of a bungalow and its curtilage. There is an evergreen hedgerow along the boundary to College Lane which provides a substantial

green screen to the appeal site. The appeal site itself is much larger than the majority of the surrounding residential development. As acknowledged by the Appellant, the site is prominently located at the entrance to Roe Green Close. The surrounding properties are generally two-storey in scale.

5. The proposed development would result in a building which would occupy a much greater proportion of the site than the existing building and would have a significantly greater amount of bulk when compared to the existing residential development in the area.
6. The building would have a significant depth (from the front to the rear of the building) and would also be much wider than the other development in the area. This, combined with the overall height would result in a building that would be significantly out of character with the prevailing development in the area even when taking into account the land level differences between the appeal site and 3 Roe Green Close.
7. This is further exacerbated by the extent of hardstanding necessary to facilitate the level of parking required, including the access driveway to the rear of the site, and the largely hard landscaped amenity areas. This factor further contrasts to the existing development in the area and gives a cramped appearance to the generally spacious and well landscaped surroundings.
8. In coming to that view, I acknowledge that the building, and particular its projecting elements and lowered roof on the eastern elevation, help to assist in breaking up the massing of the overall building. However, the development would still result in a building which has an uncharacteristic bulk and massing. The building would also be sited closer to Roe Green Close than the existing bungalow. Given the overall scale and bulk of the proposed building, this siting would exacerbate the visual impact of the development especially when viewed from the east along Roe Green Close.
9. I have also had regard to the extent of development proposed at the site. The vast majority of which would be either covered in hardstanding or built development. Whilst the site can physically accommodate the building and the level of parking required to support the development, it would nevertheless involve a significant intensification of development.
10. Turning to the overall design of the proposed building I find that this is not objectionable in principle. Whilst the proposal includes three dormer windows, these are all discreet and are not significant additions to the overall roof form. However, this does not overcome the significant harm I have identified.
11. For the above reasons the proposed development would give rise to significant harm to the character and appearance of the area contrary to Policy D2 of the Welwyn Hatfield District Plan (2005) (LP) and the Supplementary Design Guidance (2005) (SPG) which amongst other matters seeks to ensure that all new development respects the character and context of the area. It would also be at odds with the design aims of the National Planning Policy Framework (the Framework).

Living conditions – future occupiers

12. The proposed development would have two areas of amenity space for use by the future occupants of the development which total around 115 square metres in size. The rear amenity area would be around 80 square metres in size and

would be located to the north of the proposed building between the parking spaces and the boundary with 3 Roe Green Close. The remaining area would be located between the proposed building and the front boundary adjacent to the pavement.

13. The Council have not provided any indication what they consider would be an acceptable level of amenity space provision for the future occupants of the development nor is this detailed in the SPG. However, the SPG indicates that shared amenity areas should be located to the rear of the building and should be usable in terms of its orientation, width, depth and shape. Such areas should also be large enough to accommodate the needs of all (future) residents.
14. Given that the development is for 10 apartments, the total amount of amenity area is small. However, more significantly, this is split between the front and rear of the site which further diminishes its usability. Furthermore, the largest element of the amenity area would be located adjacent to the building and would be in shade almost all of the time. To my mind, the overall size and location of the amenity areas would not provide the future occupants of the development with an acceptable level of outdoor amenity space.
15. In addition to the above, the amenity areas would be located adjacent to the habitable room windows of units 1 and 4 on the ground floor. Given the location of the amenity areas there would be a significant amount of overlooking potential into the proposed ground floor habitable rooms for both apartments which would result in little privacy for their future occupiers. To my mind, this would not provide a suitable living environment for the future occupiers of these apartments.
16. In coming to that view, I acknowledge that it may be possible to provide some form of screening to both of these apartments. However, this would be likely to either reduce the amount of amenity space further and/or result in an oppressive environment for the future occupiers of these apartments.
17. For the above reasons the development would not provide suitable living accommodation for the future residents of the development contrary to Policies H2, H6 and D1 of the LP and the SPG which amongst other matters seek to ensure that proposals provide a suitable standard of living accommodation for the future occupants of the development. It would also be at odds with the overall design aims of the Framework.

Living conditions – 3 Roe Green Close

18. The development would be much greater in size, scale and height than the existing bungalow and would include parking spaces to the rear which would be close to the side garden boundary with No 3. All of these factors would inevitably have some impact on the living conditions of the occupants of No 3.
19. However, given the lower land level of the appeal site, the proposed building would be a similar overall height to No 3 when viewed from their rear garden. This together with the alignment of the rear of the proposed building would not have an overbearing nature on the occupants of No 3 when they utilise their rear garden. Similarly, given the angle of No3 relative to the proposed dwelling, and the existence of their garage to the front, the development would not be overbearing from the front aspect either.

20. Turning to the potential effect on sunlight and daylight, any impact would be largely contained to the rear garden area. However, neither the Appellant or the Council have provided any definitive evidence on this matter. From the information before me, the proposed development would be likely to cast some shadow on the rear garden area to No 3 in the afternoon. However, given the size of the garden, and the position of the proposed development, I consider that such an impact would not be so significant as to warrant the withholding of planning permission. In addition to the above, the development would also have some limited impact to the frontage of No 3. However, this would be limited to the late afternoon/evening and as such this would not have a significant impact.
21. Finally, in respect of increased noise and disturbance this would be principally from the parking area to the rear of the development. Whilst the proposal would result in an increase in activity close to the rear garden of No 3, there would be an amenity area between the parking spaces and the boundary between the two properties. To my mind, this would be sufficient to ensure that the occupiers of No 3 would not be subjected to unacceptable levels of noise and disturbance. In coming to that view I acknowledge that one of the parking spaces would be around 1.3 metres from the boundary. However, it is noted that this is away from the rear of the dwelling at No 3.
22. For the above reasons, the development would not harm the living conditions of the occupiers of 3 Roe Green Close and would accord with Policy D1 of the LP and the SPG which amongst other matters seek to ensure that the amenity of the occupiers of neighbouring dwellings are protected.

Infrastructure

23. The Council consider that the proposal should make financial contributions towards improving green space and play space in the vicinity of the site, provision of refuse bins, a contribution towards the improvement of cycling facilities and a monitoring fee. The Council have referred to Policies M4 and IM2 of the LP in support of these infrastructure requests. However, very limited information has been provided to me to justify such contributions.
24. Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
25. From the limited evidence before me, I am unclear on how the financial amount of any of the suggested contributions has been arrived at or how the development impacts on any of the requirements outlined by the Council, including whether there has been any other section 106 agreements which have contributed to such infrastructure projects. Therefore, notwithstanding the aims of the development plan policy, given the lack of evidence to justify such contributions, I am unable to conclude that the contributions sought would fully comply with Regulation 122 of the CIL Regulations.

26. In addition to the above, I am also conscious of the Court of Appeal's judgement of 11 May 2016, wherein the Secretary of State successfully appealed against the judgment of the High Court of 31 July 2015. It follows that considerable weight should be given to the Secretary of State's Written Ministerial Statement (WMS) of 28 November 2014 and the updated Planning Practice Guidance which indicates that planning obligations of this type should not be sought from development of this limited scale.
27. The determination of planning applications should be made in accordance with the Development Plan unless material considerations indicate otherwise. The WMS is clearly a material planning consideration for which I attach great weight to as it represents the clearest and most up-to-date expressions of national planning policy.
28. Given that this development falls below the threshold for such an obligation, and in the absence of any convincing evidence to justify the contributions required, I find that the absence of a planning obligation does not weigh against the development.

Other matters

29. I have also had regard to the pre-application discussions, and the discussions which the Appellant had during the course of the determination of the application by the Council. However, whilst these discussions may well have improved the overall scheme, I have already found that the considered scheme would give rise to significant harm to the character and appearance of the area and would not provide suitable living conditions for the future occupiers of the development.

Conclusion

30. Taking all matters into consideration, for the reasons given above I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR